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HOUSE BILL 111

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Dianne Miller Hamilton

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; INCREASING THE ANNUAL EARNINGS CAP FOR PUBLIC EMPLOYEE RETIREES RETURNING TO WORK WITH AN AFFILIATED PUBLIC EMPLOYER; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--SUSPENSION.--

A. A member may retire upon fulfilling the following requirements:

(1) a written application for normal retirement, in the form prescribed by the association, is filed with the association prior to the selected date of retirement;

(2) employment is terminated with all

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1 employers covered by any state system or the educational
2 retirement system prior to the selected date of retirement;

3 (3) the member selects an effective date of
4 retirement that is the first day of a calendar month; and

5 (4) the member meets the age and service
6 credit requirement for normal retirement specified in the
7 coverage plan applicable to the member.

8 B. The amount of normal retirement pension is
9 determined in accordance with the coverage plan applicable to
10 the member.

11 C. ~~[If a member retires and is subsequently~~
12 ~~employed by any affiliated public employer, the retired~~
13 ~~member's pension will be suspended effective the first day of~~
14 ~~the month following the month in which the previously retired~~
15 ~~member earns one hundred percent or more of the amount that~~
16 ~~causes a decrease or suspension of an old age benefit under the~~
17 ~~federal social security program or fifteen thousand dollars~~
18 ~~(\$15,000), whichever is less] A retired member who is receiving
19 a normal retirement pension and is subsequently employed by an
20 affiliated public employer shall have his pension suspended
21 when he earns twenty-five thousand dollars (\$25,000) or more
22 with the affiliated public employer in one year. The
23 suspension shall take effect the first day of the month
24 following the month in which the retired member's year-to-date
25 earnings are equal to or greater than twenty-five thousand~~

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1 dollars (\$25,000). When the pension is suspended, the
2 following conditions shall apply:

3 (1) the retired member who is subsequently
4 employed by an affiliated public employer shall become a
5 member. The previously retired member and the subsequent
6 affiliated public employer shall make the required employee and
7 employer contributions, and the previously retired member shall
8 accrue service credit for the period of subsequent employment;
9 and

10 (2) when a previously retired member
11 terminates the subsequent employment with an affiliated public
12 employer, he shall retire according to the provisions of the
13 Public Employees Retirement Act, subject to the following
14 conditions:

15 (a) payment of the pension shall resume
16 in accordance with the provisions of Subsection A of this
17 section;

18 (b) unless the previously retired member
19 accrued at least three years of service credit on account of
20 the subsequent employment, the recalculation of pension shall:
21 1) employ the form of payment selected by the previously
22 retired member at the time of the first retirement; and 2) use
23 the provisions of the coverage plan applicable to the member on
24 the date of the first retirement; and

25 (c) the recalculated pension shall not

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1 be less than the amount of the suspended pension.

2 D. The provisions of Subsection C of this section
3 shall not apply to a retired member who is appointed chief of
4 police of an affiliated public employer, other than of the
5 affiliated public employer from which retired, or who is
6 appointed undersheriff if the retired member files an
7 irrevocable exemption from membership with the association
8 within thirty days of appointment. For purposes of this
9 subsection, each sheriff's office shall be limited to one
10 undersheriff. The irrevocable exemption shall be for the chief
11 of police's or the undersheriff's term of office. Filing of an
12 irrevocable exemption shall irrevocably bar the retired member
13 from acquiring service credit for the period of exemption from
14 membership.

15 E. The provisions of Subsection C of this section
16 shall not apply to any retired member who is subsequently
17 employed by an employer who is not an affiliated public
18 employer.

19 F. The provisions of Subsection C of this section
20 shall not apply to a retired member who is elected to serve a
21 term as an elected official if the retired member files an
22 irrevocable exemption from membership with the association
23 within thirty days of taking office. Filing of an irrevocable
24 exemption shall irrevocably bar the retired member from
25 acquiring service credit for the period of exemption from

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1 membership.

2 G. The pension of a member who has three or more
3 years of service credit under each of two or more coverage
4 plans shall be determined in accordance with the coverage plan
5 that produces the highest pension. The pension of a member who
6 has service credit under two or more coverage plans but who has
7 three or more years of service credit under only one of those
8 coverage plans shall be determined in accordance with the
9 coverage plan in which the member has three or more years of
10 service credit. If the service credit is acquired under two
11 different coverage plans applied to the same affiliated public
12 employer as a consequence of an election by the members,
13 adoption by the affiliated public employer or a change in the
14 law that results in the application of a coverage plan with a
15 greater pension, the greater pension shall be paid a member
16 retiring from the affiliated public employer under which the
17 change in coverage plan took place regardless of the amount of
18 service credit under the coverage plan producing the greater
19 pension, provided the member has three or more years of
20 continuous employment with that affiliated public employer
21 immediately preceding or immediately preceding and immediately
22 following the date the coverage plan changed. The provisions
23 of each coverage plan for the purpose of this subsection shall
24 be those in effect at the time the member ceased to be covered
25 by the coverage plan. "Service credit", for the purposes of

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1 this subsection, shall be only personal service rendered an
2 affiliated public employer and credited to the member under the
3 provisions of Subsection A of Section 10-11-4 NMSA 1978.
4 Service credited under any other provision of the Public
5 Employees Retirement Act shall not be used to satisfy the
6 three-year service credit requirement of this subsection. "

7 Section 2. EFFECTIVE DATE. --The effective date of the
8 provisions of this act is July 1, 2003.

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